

RESOLUTION No. 2006-117-463-Z-56

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY DEMIDA / MIAMI GARDENS LLC, TO TERMINATE THE DECLARATION OF RESTRICTIVE COVENANTS RECORDED MARCH 31, 1987, IN OFFICIAL RECORDS BOOK 13230, AT PAGE 609, AND LATER MODIFIED AND RECORDED DECEMBER 8, 1988, IN OFFICIAL RECORDS BOOK 13918, AT PAGE 1943 IN THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Demida/Miami Gardens, LLC, ("Applicant") is seeking a termination of the Declaration of Restrictive Covenants recorded March 31, 1987 in Official Records Book 13230, at Page 609, and later modified and recorded December 8, 1988 in Official Records Book 13910, at Page 1943 in the Public Records of Miami-Dade County, Florida, and

WHEREAS, the purpose of the requested termination of the aforementioned covenants is to allow the Applicant to eliminate a 1987-executed agreement between Miami-Dade County and City National Bank to develop a hotel on the subject seven-acre property, and

WHEREAS, the hotel was never developed and on April 5, 2006, the City Council approved the development of a residential project on the property, and

WHEREAS, the City's Planning and Zoning staff has made a determination that the Applicants' request to terminate the above-mentioned Declaration of Restrictive Covenants (1) is in keeping with the spirit of the policies of the Comprehensive

Development Master Plan (CDMP), (2) maintains the basic intent and purpose of the Zoning Code; (3) does not negatively impact the stability and character of the area, and

WHEREAS, the City's Planning and Zoning staff recommends approval of the Applicant's request pursuant to Section 33-311(A)(7) , and

WHEREAS, the City Council considered the testimony of the Applicants, if any, and

WHEREAS, the City Council also considered the testimony of the City's Planning and Zoning staff, and the Staff Report attached hereto as Exhibit "A", incorporated herein by reference,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2. APPROVAL: The City Council for the City of Miami Gardens, Florida hereby approves the application submitted by the Applicant to terminate the Declaration of Restrictive Covenants recorded March 31, 1987 in Official Records Book 13230, at Page 609, and later modified and recorded December 8, 1988 in Official Records Book 13918, at Page 1943 in the Public Records of Miami-Dade County, Florida.

Section 3. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS ZONING MEETING HELD ON October 4, 2006.

ATTEST:

  
SHIRLEY GIBSON, MAYOR

  
RONETTA TAYLOR, CMC, CITY CLERK

Prepared by SONJA KNIGHTON DICKENS, ESQ  
City Attorney

SPONSORED BY: DANNY O. CREW, CITY MANAGER

MOVED BY: Councilwoman Watson

SECONDED BY: Vice Mayor Braynon

VOTE: 5-1

Mayor Shirley Gibson	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	
Vice Mayor Oscar Braynon, II	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	
Councilman Melvin L. Bratton	<input type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	Not present
Councilman Aaron Campbell	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	
Councilman Ulysses Harvard	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	
Councilwoman Sharon Pritchett	<input type="checkbox"/> (Yes)	<input checked="" type="checkbox"/> (No)	
Councilwoman Barbara Watson	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)	



# City of Miami Gardens

1515 NW 167<sup>th</sup> Street, Bldg. 5, Suite 200  
Miami Gardens, Florida 33169

Mayor Shirley Gibson  
Vice Mayor Oscar Braynon II  
Councilman Melvin L. Bratton  
Councilman Aaron Campbell  
Councilwoman Ulysses Harvard  
Councilwoman Sharon Pritchett  
Councilwoman Barbara Watson

## MEMORANDUM

**To:** The Honorable Mayor and City Council Members  
**Thru:** Danny O. Crew, City Manager  
**From:** Jay Marder, Development Services Director  
**Date:** October 4, 2006  
**Re:** ZPH-2006-25: Public Hearing for Demida/Miami Gardens, LLC. regarding a Termination of Restrictive Covenants

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### Summary

Applicant: Demida/Miami Gardens, LLC.  
Contact: Augusto E. Maxwell  
Location: Southwest corner of 207<sup>th</sup> Street and NW 27<sup>th</sup> Avenue  
Lot Size: 7.94 Acres (Half of Tract 33, Tract 34 & Tract 35)  
Existing Zoning: BU-1A, Limited Business District (Tract 34 and Half of Tract 33) & RU-4A, Hotel Apartment House District (Tract 35)  
Future Land Use: Business and Office  
Requested Action: TERMINATION OF THE DECLARATION OF RESTRICTIVE COVENANTS recorded March 31, 1987 in Official Records Book 13230, at Page 609, and later modified and recorded December 8, 1988 in Official Records Book 13918, at Page 1943 in the Public Records of Miami-Dade County, Florida.

### Recommendation

Approve a resolution approving the application by Demida/Miami Gardens, LLC. to terminate the aforementioned Declaration of Restrictive Covenants based on findings contained herein and generally summarized as follows:

- ✓ The requested Deletion of Covenants to eliminate the hotel development condition on the above-captioned property does not change policies of the Comprehensive Development Master Plan (CDMP) and conforms to same;
- ✓ The requested Deletion of Covenants to eliminate the hotel development condition on the above-captioned property is in keeping with basic purpose and intent of the Code, as well as recent zoning action on the property.

**9-B) PUBLIC HEARING  
RESOLUTION  
DEMIDA / MIAMI GARDENS LLC**

**REVIEW AND ANALYSIS**

**Neighborhood Land Use Characteristics**

<b>Property</b>	<b>Zoning</b>	<b>Existing Use</b>	<b>Future Land Use</b>
Site	BU-1A (Tracts 33 & 34), RU-4A (Tract	Vacant	Business & Office
North	BU-1A, Limited Business	Gas Station & Storage	Business & Office
South	GP, Governmental Property	Snake Creek Canal	Water
East	RU-1, Single-Family Residential	Single-Family Homes	Low-Density Residential
West	RU-1, Single-Family Residential	Single-Family Homes	Low-Density Residential

The subject property covers approximately eight (8) acres and is located at the southwest corner of N.W. 207<sup>th</sup> Street and Unity Boulevard (N.W. 27<sup>th</sup> Avenue). It consists of three vacant lots: to the north, a portion of Tract 33 and Tract 34, which are zoned BU-1A, Limited Business District and to the south, Tract 35, which is zoned RU-4A, Hotel Apartment House District. An existing Race Trac Petroleum, Inc. automotive gas station occupies the other half of Tract 33. The properties to the north, across from N.W. 207<sup>th</sup> Street, are zoned BU-1A and include a storage facility as well as retail uses. The property located directly south of the site, across Snake Creek Canal, includes townhouses. Properties to the west across N.W. 27<sup>th</sup> Avenue have been developed with single-family residences. A multifamily apartment development (Crystal Lake Apartments) is located at the northeast corner of N.W. 27<sup>th</sup> Avenue and N.W. 207<sup>th</sup> Street. (See Aerial, attached).

**Consistency with Comprehensive Development Master Plan**

The site is designated Business and Office on the Future Land Use Plan Map 2005-2015 of the Future Land Use Element of the Comprehensive Development Master Plan (CDMP). This category accommodates the full range of sales and service activities, including, but not limited to, retail, wholesale, commercial and professional offices, hotels, hospitals, and cultural facilities. Residential uses are also permitted in this category provided that:

- The scale and intensity, including height and floor area ratio of the residential development, is not out of character with that of adjacent or adjoining development and zoning;
- The proposed uses provide a sensitive well designed transition to any adjacent or adjoining residentially developed or designated areas of different development intensity, and do not detrimentally impact same; and
- The density does not exceed the maximum allowable density of the zoning district for any adjacent or adjoining undeveloped land (Future Land Use Element, Page I-34).

The purpose of the requested termination of restrictive covenants is to eliminate a hotel development condition on the subject property. Ultimately, the elimination of this condition will allow the Applicant to erect a multifamily residential development that meets all the criteria pertaining to the siting of such development in a Business and Office designated area. The areas surrounding the site include, among other land uses, many parcels that are designated as either

Low Density Residential or Low Medium Density Residential on the Future Land Use Plan Map 2005-2015 of the Future Land Use Element of the CDMP. The Low Medium Density Residential land use category provides for a density varying from thirteen (13) to twenty-five (25) dwelling units per acre. With a density of approximately nineteen (19) dwelling units per acre, the proposed development will not detrimentally impact and will not be out of character with the adjacent or adjoining residentially designated areas. In fact, this development is similar in scale, height and density with that of the townhouse development to the south of Snake Creek Canal and that of the apartment development on the east side of N.W. 27<sup>th</sup> Avenue. The proposed development provides an appropriate transition between the single-family residences to the west and the more intensive commercial uses located on N.W. 27<sup>th</sup> Avenue. It is further noted that this development will, in accordance with Policy 1G of Objective 1 of the CDMP's Goal, promote housing diversity in the area, avoiding the creation of monotonous developments.

Based on these findings, the applicant's request to terminate the Declaration of Restrictive Covenants running with the above-captioned property (1) does not change policies of the CDMP and (2) is consistent with same.

### **Zoning History**

In 1963, the Miami-Dade County Board of County Commissioners (BCC) approved Resolution Z-209-63 granting the rezoning of the subject tracts (Tracts 33, 34 & 35) from BU-1A, Limited Business District to RU-1, Single-Family Residential District. On June 11, 1987, the BCC passed and adopted Resolution Z-76-87 permitting the rezoning of Tracts 33 and 34 to BU-1A and Tract 35 to RU-4A, High Intensity Apartment House District. A Declaration of Restrictions was subsequently recorded that restricted the use on the property to hotel and motel. On October 13<sup>th</sup>, 1988, another hearing led to the adoption of Resolution Z-210-88, which approved, among other requests, a use variance to permit a commercial parking lot on the property on a temporary, conditional basis for a period of two (2) years, said use to expire on September 15<sup>th</sup>, 1990. On May 9<sup>th</sup>, 1990, the Miami-Dade County Zoning Appeals Board (CZAB) passed resolution 4-ZAB-126-90, which modified Condition #5 of Resolution Z-210-88 to extend the expiration date of the temporary, conditional parking lot use until September 15<sup>th</sup>, 1993 and also approved a special exception request to permit barbed wire and constantino wire on top of the existing wall along the westerly property line. Resolution 5-ZAB-53-93, which was adopted by the CZAB, further modified Condition #5 of Resolution Z-210-88 to permit the use of the property as a commercial parking lot until September 15<sup>th</sup>, 1996. (See Resolutions, attached).

On April 5, 2006, pursuant to Resolution No. 2006-27-Z-46, the City Council approved an application by City National Bank of Florida as a Trustee under Land Trust No. 2400-5110-00 ("City National Bank") for (1) a special exception to permit the construction of multi-family residential development on the two (2) BU-1A zoned tracts; (2) a waiver of the requirement for a six-foot high decorative masonry wall between the two BU-1A zoned tracts (½ of Tract 33 and Tract 34) and the RU-4A zoned tract (Tract 35); (3) a non-use variance of height requirements to permit an eight-foot high wall; and (4) an unusual to permit two (2) entrance features on the property. At the same hearing, the City Council also adopted a Declaration of Restrictions proffered by City National Bank and outlining a settlement agreement between the City of

Miami Gardens and said corporation. (See Resolution No. 2006-27-Z-46 and Declaration of Restrictions, attached).

### **Zoning Criteria and Additional Analysis**

The Applicant, Demida/Miami Gardens, is seeking a termination of the Declaration of Restrictive Covenants recorded March 31, 1987 in Official Records Book 13230, at Page 609, and later modified and recorded December 8, 1988 in Official Records Book 13918, at Page 1943 in the Public Records of Miami-Dade County, Florida.

**Zoning Criteria:** Under the Zoning Code the following review criterion was considered for review of the applicant's proposal:

- Section 33-311(A)(7) Criteria for Modification or Elimination of Conditions imposed by Resolution, according to which the City Council may hear applications to modify or eliminate any condition or part thereof which has been imposed by any final decision adopted by resolution, and to modify or eliminate any provisions of restrictive covenants, or parts thereof, accepted at public hearing, except as otherwise provided in Section 33-314(C)(3); provided, that the Council finds after public hearing that, when considering the necessity and reasonableness of the modification or elimination in relation to the present and future development of the area concerned, the modification or elimination would not (a) generate excessive noise or traffic, (b) tend to create a fire or other equally or greater dangerous hazard, (c) provoke excessive overcrowding of people, (d) would not tend to provoke a nuisance, or (f) be incompatible with the area concerned.

The purpose of the requested termination of the aforementioned covenants is to allow the Applicant to eliminate a 1987-executed agreement between Miami-Dade County and City National Bank to develop a hotel on the subject seven-acre property. For some reasons, the hotel was never developed and on April 5, 2006, the City Council approved the development of a residential project on the property. The Applicant's request is in keeping with this zoning action as it terminates the hotel development restriction and provides for residential use on the site. Furthermore, when considering the necessity and reasonableness of the termination of this covenant in relation to the present and future development of the area concerned, this termination does not create any burden on the existing, planned or budgeted public infrastructures, is not detrimental to and is compatible with the area. The Applicants' request therefore maintains the basic intent and purpose of the Zoning Code.

Based on these findings, Demida/Miami Gardens' request to terminate the above-mentioned Declaration of Restrictive Covenants (1) is in keeping with the spirit of the policies of the CDMP; (2) maintains the basic intent and purpose of the Zoning Code (3) does not impact negatively the stability and character of the area and (4) is, pursuant to Section 33-311(A) (7), recommended for approval.

**Public Facilities Impact**

This application involves a termination of covenant and, as such, will not create any additional impact upon the existing urban services and facilities.

This recommendation to approve the Applicant's requests does not constitute a final development order; one or more concurrency determinations will subsequently be required.

**Attachments:**

Letter of Intent  
Hearing Map - Zoning  
Mailed Notice Radius Map  
Hearing Map – Aerial  
Termination of the Declaration of Restrictive Covenants  
Resolution Z-76-87  
Resolution Z-166-87  
Resolution Z-210-88  
Resolution 4-ZAB-126-90  
Resolution 5-ZAB-53-93  
Resolution No.2006-27-373-Z-46  
Declaration of Restrictions/Settlement Agreement (The Commons)  
City of Miami Gardens Proposed Resolution

**LETTER OF INTENT**